

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for the 2005 Nuclear Decommissioning Cost Triennial Proceeding to Set Contribution Levels for the Companies' Nuclear Decommissioning Trust Funds and Address Other Related Decommissioning Issues.

Application 05-11-008  
(Filed November 10, 2005)

Application of Pacific Gas and Electric Company in its 2005 Nuclear Decommissioning Cost Triennial Proceeding.

Application 05-11-009  
(Filed November 10, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING SCOTT L. FIELDER'S NOTICE OF  
INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent to claim intervenor compensation (Notice) filed by Scott L. Fielder (Fielder), on February 6, 2006. This ruling addresses the requirements of the Public Utilities Code, Article 5, § 1804. All statutory references are to the Public Utilities Code. In consultation with the assigned Commissioner, I find that Fielder is eligible for compensation in this proceeding.

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference (PHC) is held, file and serve on all parties to the proceeding a Notice." The PHC in this proceeding

was held on January 5, 2006. Fielder's Notice was timely filed. Section 1804(a)(2) sets forth those items that must be addressed in a Notice.

### **Customer Status**

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Fielder indicates that he has been a customer of Pacific Gas & Electric Company (PG&E) since 1982 (Notice, p. 2) and therefore Fielder meets the requirements of the first definition of customer. Fielder, an attorney, has previously represented the now-defunct Redwood Alliance in Commission proceedings which addressed Humboldt Bay Unit 3. (Notice, p. 3.)

### **Significant Financial Hardship**

Once the applicable definition of customer is identified, the correct standard of "significant financial hardship" can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the Notice. Alternatively, the required showing may be made in the request for award of compensation. Fielder did not make his showing of significant financial hardship at this time in the Notice. Section 1802(g) defines "significant financial hardship":

"Significant financial hardship" means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group

or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”

Fielder must demonstrate significant financial hardship in any subsequent Request for Compensation.

### **Nature and Extent of Planned Participation**

Section 1804(a)(2)(A)(i) requires Notices to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. Fielder has reviewed PG&E’s application, and attended the January 5, 2006 PHC. Fielder states that he will focus on six specific issues and other related matters as allowed by the Scoping Memo.<sup>1</sup> Specifically:

1. Independent Board of Consultants for Humboldt Unit 3,
2. Protection of the trust funds,
3. Contingency factor for the decommissioning cost estimates,
4. Cost estimates for waste burial,
5. Decommissioning cost estimate adequacy, and
6. Cost effectiveness of re-licensing and continued operations.

By this Ruling we put Fielder on notice that item 6, the suggested issue of cost effectiveness of re-licensing and continued operations, (Notice pp. 9-10) may not be within the scope of the proceeding as described in the January 18, 2006 Scoping Memo. Fielder must demonstrate that he satisfies the substantial contribution requirement in his Request for Compensation. (*See* §§ 1802(i) and 1802.5.)

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<sup>1</sup> Notice, pp. 6-10.

A finding of eligibility to claim intervenor compensation does not assure an award of compensation. Fielder must also coordinate his efforts with other parties in order to minimize duplication of effort.

### **Itemized Estimate of Compensation**

Section 1804(a)(2)(A)(ii) requires that Notices include an itemized estimate of the compensation the customer expects to receive. Fielder estimates a total projected budget of \$70,000 for this based on proposed hourly rates that will be addressed in his Request for Compensation. The presentation of the estimate below should in no way be construed as ruling on its reasonableness of scope, hourly compensation, or recoverability of the various costs.

#### **Fielder's Itemized Estimate**

##### **Professional Fees**

Scott Fielder	(100 hrs. @ \$250/hr.)	\$ 25,000
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<b><u>Consulting Expenses</u></b>		<b>\$ 20,000</b>
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##### **Estimated Expenses**

Paralegal	(200 hrs. @ \$75/hr.)	\$ 15,000
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Other Direct Expenses		<b><u>\$ 10,000</u></b>
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<b>Total</b>		<b>\$ 70,000</b>
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Therefore, **IT IS RULED** that:

1. Scott L. Fielder (Fielder) has met the eligibility requirements of Pub. Util. Code § 1804(a). Fielder deferred the requirement that he establish significant financial hardship for inclusion in his Request for Compensation. Fielder is found eligible for compensation in this proceeding subject to demonstrating both significant financial hardship and substantial contribution.
2. Fielder is a customer as that term is defined in § 1802(b).
3. A finding of eligibility in no way assures compensation.

4. Fielder must make every effort to reduce and avoid duplication of contribution.

Dated February 14, 2006, at San Francisco, California.

/s/ DOUGLAS M. LONG

Douglas M. Long  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Scott L. Fielder's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated February 14, 2006, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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